

#### PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

#### TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs, Robert N. Goldstein (Goldstein), Goldstein/Habeeb/McCalmont Entertainment, Inc. (GHE) and Cheaters, Ltd. (Cheaters) file this Motion for Summary Judgment on all of Plaintiffs' claims for injunctive relief against the Defendant, Tommy Habeeb, and in support of same would respectfully show the following:

# I. Operative Facts

All of the matters required by Local Rule 56.3 will be set forth in the brief accompanying this motion.

## II. Applicable Standard

Summary judgment is appropriate if no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. Fed.R.Civ.P. 56(c). The Court views the evidence in a light most favorable to the non-movant. *Coleman v. Houston Indep. Sch. Dist.*, 113 F.3d 528, 533 (5th Cir. 1997). The non-movant must go beyond the pleadings and come forward with specific facts indicating a genuine issue for trial to avoid summary judgment. *Celotex Corp. v. Catrett, 477 U.S. 317, 324 (1986)*. A genuine issue of material fact exists when the evidence is such that a reasonable jury could return a verdict for the non-movant. *Anderson v. Liberty Lobby*,

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Inc., 477 U.S. 242, 248 (1986). Summary judgment is appropriate, however, if the non-movant "fails to make a showing sufficient to establish the existence of an element essential to that party's case." Celotex, 477 U.S. at 322-23.

## III. Applicable Law

All of the matters required by Local Rule 56.5 will be set forth in the brief accompanying this motion.

## **Relief Sought**

Plaintiffs request that the Court enter summary judgment permanently enjoining Defendant from pursuing the State Court Action, or any of Defendant's claims stated in the State Court Action in any other court.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing Plaintiff's Motion for Summary Judgment has been served by hand delivery or certified mail, return receipt requested, upon all counsel of record in the above-styled and numbered cause in accordance with Rule 5, Federal Rules of Civil Procedure, on this / 344 day of

Timothy W. Sorenson

Plaintiffs' Motion for Summary Judgment